

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

No. 20-cr-390 (ENV)

JAVIER AGUILAR

Defendant.

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DECLARATION OF GEORGE T. PHILLIPS

I, George T. Phillips, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am an associate with the law firm Quinn Emanuel Urquhart & Sullivan, LLP and a member in good standing of the bars of the State of New York and this Court. I respectfully submit this declaration in support the motion to suppress statements (ECF No. 66) brought by our client, Defendant Javier Aguilar.

2. Attached as **Defense Exhibits A, B, C, D, F, H, I, J, J-A, K, L, M, N, O, and P** are true and correct copies of the defense's exhibits introduced during the suppression hearing held on March 1–2, 2022. The defense previously provided these exhibits to the Court via emails dated March 1 and March 2, 2022.*

3. Attached as **Defense Exhibit Q** is a true and correct copy of the consolidated transcript of the suppression hearing held on March 1–2, 2022. Docket entries for the transcripts of each day of the suppression hearing are at ECF Nos. 94–95.

* The defense will separately seek leave to file under seal Defense Exhibits C, D, F, H, J-A, and O, as well as Defense Exhibit X (described *infra* ¶ 10). Defense Exhibits D and F were previously filed under seal at ECF No. 71. *See* Min. Order dated Oct. 13, 2021. Defense Exhibit E, a typed version of Agent Zukas's handwritten notes that was prepared by defense counsel, was received for purposes of identification. *See* Suppression Hr'g Tr. (Def. Ex. Q) at 101:1–102:21. There is no Defense Exhibit G.

4. Attached as **Defense Exhibit R** is a true and correct copy of an email from Assistant U.S. Attorney Jonathan Lax to the defense dated February 28, 2022, providing a supplemental production of materials relevant to U.S. Department of Homeland Security (“DHS”) Special Agent Matt Wood’s testimony under 18 U.S.C. § 3500. This exhibit includes three of the four attachments to this email. The remaining attachment to this email (Bates No. DOJ-3500-MW-15) is already in the record as Defense Exhibit O (seal status sought).

5. Attached as **Defense Exhibit S** is a true and correct copy of a printout of the Federal Aviation Administration website, which displays a post titled “FAA Statement on Wearing Masks in Airports and On Planes” dated May 14, 2021, available at: <https://www.faa.gov/newsroom/faa-statement-wearing-masks-airports-and-planes>.

6. Attached as **Defense Exhibit T** is a true and correct copy of a printout from the Internet Archive’s “Wayback Machine” which displays a post as of November 21, 2020 from the Centers for Disease Control and Prevention website titled “Testing and International Air Travel” dated November 21, 2020, available at: <https://web.archive.org/web/20201121193839/https://www.cdc.gov/coronavirus/2019-ncov/travelers/testing-air-travel.html>.

7. Attached as **Defense Exhibit U** is a true and correct copy of a document reflected as CBP Publication No. 0843-1218 (*see infra* ¶ 8), available on the U.S. Customs and Border Protection (“CBP”) website. The English version of this document is available at: <https://www.cbp.gov/document/publications/zero-tolerance-sexual-abuse-and-assault-poster-english>. The Spanish version of this document is available at: <https://www.cbp.gov/document/publications/zero-tolerance-sexual-abuse-and-assault-poster-spanish?language=es>.

8. Attached as **Defense Exhibit V** is a true and correct copy of a printout of the CBP website titled “CBP Publication Catalogue,” available at: <https://www.cbp.gov/newsroom/publications/cbp-publication-catalogue>. This document reflects CBP Publication Number 0843-1218 (English and Spanish), which is titled “Zero Tolerance Sexual Abuse / Assault Poster.” *Id.* at 6. The document reflects it was dated December 2018, is described as “Agency Mandated,” and its audience is “Individuals in CBP Custody.” *Id.*

9. Attached as **Defense Exhibit W** is a true and correct copy of a production letter from Assistant U.S. Attorney Jonathan Lax to the defense dated December 14, 2021, which includes “general measurements of the room” in which Mr. Aguilar was interrogated.

10. Attached as **Defense Exhibit X** (seal status sought) is a true and correct copy of the Federal Bureau of Investigation’s (“FBI”) 1A file of materials enclosed with the FBI’s Form FD-302 of the interrogation, produced by the government at Bates No. DOJ-ADD-0000000013. This exhibit includes materials shown to Mr. Aguilar during the interrogation. *See* ECF No. 78-2, Ex. B at 2.

11. Attached as **Defense Exhibit Y** is a true and correct copy of an email chain and attachment dated July 7, 2020, among DHS Special Agent Matt Wood and FBI Special Agent James Kelley and FBI employee Paul Kindred, produced by the government at Bates Nos. DOJ-3500-MW-9 and DOJ-3500-MW-9-A.

12. Attached as **Defense Exhibit Z** is a true and correct copy of an email chain dated July 9, 2020, between DHS Special Agent Matt Wood and FBI Special Agent Paul Zukas, produced by the government at Bates No. DOJ-3500-MW-11.

13. Attached as **Defense Exhibit AA** is a true and correct copy of a document titled “Electronic Recording of Confessions and Witness Interviews,” dated March 23, 2006, from the

FBI's Office of the General Counsel, available through *The New York Times* at: https://www.nytimes.com/packages/pdf/national/20070402_FBI_Memo.pdf.

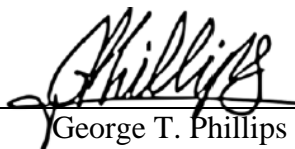
14. Attached as **Defense Exhibit BB** is a true and correct copy of a printout of a press release on the U.S. Department of Justice ("DOJ") website titled "Justice Department Announces First Federal Agents to Use Body-Worn Cameras" dated September 1, 2021, available at: <https://www.justice.gov/opa/pr/justice-department-announces-first-federal-agents-use-body-worn-cameras>.

15. Attached as **Defense Exhibit CC** is a true and correct copy of a printout of a press release on the DHS website titled "ICE Announces Use of Body Worn Cameras in New Pilot Program" dated December 21, 2021, available at: <https://www.dhs.gov/news/2021/12/21/ice-announces-use-body-worn-cameras-new-pilot-program>.

16. Attached as **Defense Exhibit DD** is a true and correct copy of a document titled "Deferred Prosecution Agreement," concerning the case captioned *United States v. Vitol Inc.*, No. 20-cr-539 (E.D.N.Y.), available on the DOJ website at: <https://www.justice.gov/usao-edny/press-release/file/1342826/download>.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed On: April 5, 2022


George T. Phillips